

Nos. 25-1018(L), 25-1019, 25-1024

**IN THE UNITED STATES COURT OF APPEALS FOR THE
FOURTH CIRCUIT**

JEFFERSON GRIFFIN,
Petitioner-Appellee,

v.

NORTH CAROLINA STATE BOARD OF ELECTIONS,
Respondent-Appellant,
and

ALLISON RIGGS, et al.,
Intervenor-Appellants.

On Appeal from the United States District Court
for the Eastern District of North Carolina
No. 5:24-CV-00724-M-RN
Hon. Richard E. Myers, II

**MOTION FOR LEAVE TO FILE BRIEF OF *AMICI*
CURIAE SCHOLARS OF DEMOCRATIC BACKSLIDING**

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1 and Local Rule 26.1, *amici* Erica Frantz, Tom Ginsburg, Jacob Grumbach, Aziz Huq, Robert Kaufman, Pippa Norris, Kim Lane Scheppele, and Susan Stokes state that they are natural persons and accordingly have no disclosures to make relating corporate or organizational status.

Date: January 22, 2025

/s/ Kristi Graunke
Kristi Graunke

Counsel for Amici Curiae

MOTION FOR LEAVE TO FILE BRIEF OF *AMICI CURIAE*

Pursuant to Federal Rule of Appellate Procedure 29 and Fourth Circuit Rule 29(a), Erica Frantz, Tom Ginsburg, Jacob Grumbach, Aziz Huq, Robert Kaufman, Pippa Norris, Kim Lane Scheppele, and Susan Stokes respectfully request leave to file the accompanying *amici curiae* brief in support of the Appellants. This motion and the attached proposed brief are timely filed in accordance with Rule 29(a)(6) of the Federal Rules of Appellate Procedure because they are being filed within seven days of the filing of Appellants' principal brief. Moreover, this motion and the attached proposed brief are being filed prior to oral argument in this case.

Appellants consent to this Motion, but Appellee does not.

Amici are leading scholars who study “democratic backsliding”—the process by which a state’s democratic character is eroded or degraded from within. Their fields of expertise include comparative politics, democratization, authoritarianism, federalism, and international law. They hold distinguished academic posts at the University of Chicago, University of Chicago Law School, University of California Berkeley, Harvard University’s Kennedy School of Government, Michigan State University, Princeton University, and Rutgers University. *Amici*’s publications (among

many others) include *The Origins of Elected Strongmen* (Frantz), *How to Save a Constitutional Democracy* (Ginsburg and Huq), *Judicial Review in New Democracies* (Ginsburg), *Laboratories Against Democracy* (Grumbach), *Why Elections Fail* (Norris), *Backsliding: Democratic Regress in the Contemporary World* (Kaufman) and *The Fragility of an Independent Judiciary: Lessons from Hungary and Poland – and the European Union* (Scheppele).

This case presents issues of great importance to the preservation of democracy in North Carolina. As a threshold matter, the parties raise questions related to the proper role of federal courts in enforcing the democratic commitments embodied in federal constitutional and statutory law, such as the commitment to treating voters equally. And on the merits, this case will determine whether the results of a popular election in North Carolina will be upheld or overturned—and whether the votes of over 60,000 North Carolinians will be discarded.

Amici's expertise and knowledge will allow them to provide the Court with a unique, comparative perspective on both the threshold and merits questions, grounded in decades of scholarship. As scholars who specialize in studying the erosion of democracies, *amici* can and will provide context

for what is happening in North Carolina today, identifying North Carolina's experience as a form of democratic backsliding that is fundamentally similar to the erosion in democratic norms and practices that we observe in backsliding democracies overseas. *Amici* will explain how the potential overturning of an election in North Carolina threatens to exacerbate this ongoing process. But *amici* will also highlight the critical role that independent courts—and in particular *federal* courts—can play in guarding against democratic backsliding in the states.

The proposed amicus brief details (1) the nature and process of democratic backsliding, including notable examples of backsliding, (2) the advent of democratic backsliding in North Carolina and the implications of the controversy at issue here for that process, and (3) the importance of federal court intervention in this case to halt the erosion of democracy in North Carolina. *Amici* will urge this Court to reverse the district court's abstention ruling and rule on the merits against Judge Jefferson Griffin's request to overturn a state Supreme Court election.

WHEREFORE, proposed *amici curiae* respectfully request that this Court grant this motion for leave to file the attached brief in support of Appellants.

Dated: January 22, 2025

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Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I hereby certify that:

1. This motion complies with the type-volume limitation of Fed. R. App. P. 27(d)(2) because, excluding the parts of the document exempted by the Rules, it contains 572 words.
2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared in a proportionally spaced typeface with 14-point Century Schoolbook font.

Date: January 22, 2025

/s/ Kristi Graunke

Kristi Graunke

Counsel for Amici Curiae

CERTIFICATE OF SERVICE

I hereby certify that on January 22, 2025, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Fourth Circuit by using the appellate CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

Date: January 22, 2025

/s/ Kristi Graunke
Kristi Graunke

Counsel for Amici Curiae